

**STATE OF CONNECTICUT  
CONNECTICUT EXAMINING BOARD FOR BARBERS,  
HAIRDRESSERS AND COSMETICIANS**

Gertrude Stevens

Petition No. 970805-020-008

**MEMORANDUM OF DECISION**

***Procedural Background***

On June 7, 1999, the Department of Public Health ("the Department") presented the Connecticut Examining Board For Barbers, Hairdressers And Cosmeticians ("the Board") with a Statement of Charges ("the Charges") brought against Gertrude Stevens ("respondent") dated April 22, 1998. Dept. Exh. 1. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on August 28, 1998. Dept. Exh. 1.

Respondent filed an Answer on November 6, 1998.

On June 7, 1999, the Board held an administrative hearing to adjudicate respondent's case. Respondent appeared and was represented by Raymond LeFoll, Esq.; Ellen Shanley, Esq., represented the Department.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and the Regulations of Connecticut State Agencies ("the Regulations") §19a-9-1, *et seq.* All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have heard the case or read the record in its entirety.

This decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

***Allegations***

1. In paragraphs 1, 7, and 13 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser and cosmetician license number 014215.
2. In paragraph 2 of the Charges, the Department alleges that during 1995-1996, Mary-Ann Smith was respondent's client at the "Hair Clinic" ("the Clinic") in Rocky Hill, CT.
3. In paragraph 3 of the Charges, the Department alleges that during 1995, Ms. Smith contracted with and paid respondent for a "hair unit" with hair weave installation, to augment her own hair.
4. In paragraph 4 of the Charges, the Department alleges that subsequently, respondent installed and styled the "hair unit" with Ms. Smith's hair.
5. In paragraph 5 of the Charges, the Department alleges that as a result of respondent's treatment, Ms. Smith's scalp and hair were damaged.
6. In paragraph 8 of the Charges, the Department alleges that Richard Dunn was respondent's client at the Clinic.
7. In paragraph 9 of the Charges, the Department alleges that respondent processed and styled Mr. Dunn's hair along with the "hair units" he had purchased from respondent.
8. In paragraph 10 of the Charges, the Department alleges that as the result of respondent's treatment, Mr. Dunn's hair and/or scalp were damaged.
9. In paragraph 11 of the Charges, the Department alleges that during the course of said treatment, respondent:
  - a. provided Mr. Dunn with inappropriate supplies to use when styling his hair with his "hair unit," and/or,
  - b. attempted an unauthorized charge against a Mr. Dunn's credit card.

10. In paragraph 14 of the Charges, the Department alleges that John Termine<sup>1</sup> was respondent's client at the Clinic.
11. In paragraph 15 of the Charges, the Department alleges that during November of 1991, Mr. Termine paid in advance for hairdressing services in conjunction with the purchase of a hair unit from respondent.
12. In paragraph 16 of the Charges, the Department alleges that despite Mr. Termine's request(s), respondent failed to perform the services for which he had paid.
13. In paragraphs 6, 12, and 17 of the Charges, the Department alleges that these facts constitute grounds for disciplinary action pursuant to section 20-263 of the Connecticut General Statutes.

### *Findings of Fact*

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser and cosmetician license number 014215. Tr. 153; Answer.
2. During 1995-1996, Mary-Ann Smith was respondent's client. Tr. 193.
3. On September 19, 1995, Ms. Smith contracted with and paid respondent \$1,200.00 for a hair unit and a hairweave to augment her own hair. Tr. 59, 95.
4. On November 30, 1995, after Ms. Smith had repeatedly telephoned respondent, she was informed that the hair unit had arrived. Upon inspection, Ms. Smith determined that the unit was shorter than she requested and looked like a wig. Respondent installed and styled the hair unit to Ms. Smith's own hair with what appeared to be "fishing line." Tr. 60.
5. Ms. Smith's head became uncomfortable, swollen, and sore because the weave was too tight. On January 23, 1996, Ms. Smith's hairdresser removed the unit and informed Ms. Smith that, instead of a hairweave, a wig was sewn on to the circumference of her head. Tr. 66, 74; Dept. Exh. 9.

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<sup>1</sup> The Board amended Mr. Termine's name to reflect the correct spelling because it was incorrectly stated as "Termaine" in the Charges. Tr. 31-32.

6. Ms. Smith sustained hair loss in spots, which still has not regrown, when her hairdresser spent approximately one hour removing the unit. Ms. Smith had thin hair prior to respondent's treatment but had no hair loss problem. Tr. 65-67, 86.
7. Ms. Smith's scalp and hair were damaged due to the tension and tightness of the application. Tr. 65; Dept. Exh. 7.
8. Dr. Lauren Daman, a dermatologist, examined Ms. Smith and prescribed topical treatments because her scalp was sore, red, and swollen. Tr. 67, 93; Dept. Exh. 8.
9. Ms. Smith demanded a refund of the \$1,200.00 she paid to respondent which respondent refused until Ms. Smith retained counsel. Tr. 69, 71.
10. Richard Dunn was respondent's client for many years. During the last two years he received services from respondent, she processed and styled his hair and the hair units he purchased from her. Mr. Dunn charged these services and products to his credit card both in person and by telephone order to respondent. Tr. 163-165, 168, 197.
11. When Mr. Dunn received his Discover charge card statement in June of 1997, he identified three unauthorized charges by respondent totaling \$2,500.00. Mr. Dunn requested information from respondent about these charges but she failed to satisfy his request. Tr. 115-116, 142-143; Dept. Exh. 10.
12. Mr. Dunn never paid the three charges because he received a letter from Discover relieving him of that responsibility. The Clinic paid the charges. Tr. 127, 137, 145, 165.
13. During 1997, Mr. Dunn stored six pre-paid hair units at the Clinic. Tr. 118.
14. During the latter part of respondent's services to Mr. Dunn, his scalp became irritated, red, chafed and blistered; his hair became brittle. Medical treatment was neither sought nor obtained. Mr. Dunn was allergic to certain products that he used with his hair unit. He never complained to respondent about these problems. Tr. 146, 151, 170.
15. Mr. Dunn had a friendship with respondent for approximately twenty years. Tr. 126 128.

16. Mr. Dunn prevailed against respondent in a small claims action seeking \$1,600.00 for undelivered products and for the six hair units stored at the Clinic. Respondent paid the judgment. Tr. 139, 146, 166.
17. There was insufficient evidence to establish that respondent provided Mr. Dunn with inappropriate supplies.
18. John Termine was respondent's client when she worked for the Hair Replacement Centers in West Hartford. When she opened the Clinic, she invited him to transfer there. At the Clinic, respondent cut, shampooed, and wove Mr. Termine's hair, and trimmed his beard. Tr. 33.
19. In November of 1991, Mr. Termine ordered hair units from respondent for \$400.00. Mr. Termine paid a \$200.00 deposit with the balance of \$200.00 due on installation. Tr. 34.
20. In November of 1991, respondent telephoned Mr. Termine and offered him a special that if he immediately paid the \$200.00 balance she would provide (1) free installation of the hair units, and (2) three free reweaves which typically cost \$50.00 each. Mr. Termine accepted the offer and anticipated receiving the hair units during February of 1992. Tr. 34-35.
21. Mr. Termine contacted respondent in March of 1992 when his hair units did not arrive in February. Respondent advised him that there was no specific date of anticipated delivery. In April of 1992, Mr. Termine contacted respondent who informed him that the unit had arrived but was returned because of its poor quality. When the unit had not arrived as of June 1992, Mr. Termine demanded a refund. Tr. 36-37.
22. In June of 1992, respondent gave Mr. Termine a three week post-dated check. When Mr. Termine attempted to negotiate the check in July of 1992, there were insufficient funds. After Mr. Termine's written demand by certified letter, respondent refunded the money in its entirety by postal order. Tr. 38, 161.

### ***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 9333 (1981); *Swiller v. Commissioner of*

*Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

Section 20-263 of the Connecticut General Statutes provides: "The [B]oard may suspend the license of any operator, registered hairdresser and cosmetician, . . . convicted of violating any provision of this chapter or . . . take any of the actions set forth in section 19a-17 . . . ."

The Department sustained its burden of proof as regards Counts One and Three of the Charges.

As regards Count One, respondent was negligent by installing the hair unit on Ms. Smiths' head in the first place because the hair structure was not strong enough to support the weight of the unit.

As regards Count Three, respondent failed to perform services and/or provide supplies for which she had been paid regardless of whether respondent belatedly refunded the monies to Mr. Termine.

The Department failed to meet its burden of proof as regards paragraphs 10, 11a, 11b, and 12 of Count Two of the Charges.

Although the evidence supports the Department's claim that Mr. Dunn's hair and/or scalp may have been damaged and/or sore, there was no evidence that this was caused by respondent's treatment. Instead, Mr. Dunn testified that the reaction was due to an allergic response. FF. 14.

The record establishes that Mr. Dunn and respondent were friends for at least twenty years, that he was a customer for a long time, and that there was an ongoing practice of respondent applying charges against Mr. Dunn's credit card both in person and via telephone order. Mr. Dunn gave respondent his credit card number to enable respondent to order supplies in advance, which she did in this instance. The Board found respondent to be credible in her testimony regarding this arrangement.

Accordingly, the Board finds that respondent violated §20-263 of the Connecticut General Statutes.

***Order***

Pursuant to the authority vested in it by §20-263 of the Connecticut General Statutes, the Board hereby orders the following in this case against Gertrude Stevens, Petition No. 970805-020-008:

1. Respondent is hereby reprimanded.
2. Respondent shall pay a civil penalty of two hundred and fifty dollars (\$ 250.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.
3. This order is effective as of the date of signature.

Connecticut Examining Board for Barbers,  
Hairdressers and Cosmeticians

6/12/00  
Date

Kathleen F. Kiernan  
By: Kathleen F. Kiernan, Chairperson  
Connecticut Examining Board for Barbers,  
Hairdressers and Cosmeticians